IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 851 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAYWADAN LALLUBHAI ROTLIWALA

Versus

GAURANG PRAVINCHANDRA CHOKSI

Appearance:

1. Criminal Misc.Application No. 851 of 2003

MR CJ VIN for Petitioner No. 1-4

MR YATIN SONI for Respondent No. 1

MS SHILPA V SHAH for Respondent No. 1

MS. MITA PANCHAL, APP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 26/08/2004

ORAL JUDGEMENT

Mr. C.J.Vin, learned advocate of the petitioners

seeks leave to withdraw the petition with a view to raise all the averments which they have raised in this petition before the learned Magistrate, at the time of precharge evidence. Ms. Mita Panchal, learned APP appearing on behalf of respondent No.2 State of Gujarat and Ms. Shilpa V Shah, learned advocate appearing on behalf of respondent No.1 original complainant have no objection if leave as prayed for is granted. Hence, leave to withdraw the petition is granted. Petition stands disposed of as it is withdrawn. Rule is discharged.

It would be open for the petitioners to raise all the averments which they have raised in this petition by way of defence at the time of precharge evidence, which shall be considered and decided by the learned Magistrate in accordance with law and uninfluenced by the fact that the petitioners have filed this petition before this Court for quashing, which has been disposed of as withdrawn. It is further clarified that this Court has not examined the averments made in this petition on merits which shall be examined by the learned Magistrate at the time of precharge evidence. It is expected of both the parties to cooperate with the expeditious disposal of the trial.

(A.M.Kapadia,J)
Jayanti*